

REMARKS

In response to the Office Action mailed September 24, 2010, Applicant respectfully requests reconsideration. Claims 1-12, 14-32, 34-54, 56-71, 73-88, 90-108 and 110-116 were previously-pending in this application. Claims 1, 21-32, 34-40, 63, 80-88, and 90-96 are amended herein. No claims have been added and none have been canceled. To further the prosecution of this application, each of the rejections set forth in the Office Action has been carefully considered and is addressed below. The application as presented is believed to be in condition for allowance.

Rejections under 35 U.S.C. §101

The Office Action rejects each of claims 21-32, 34-40, 80-88 and 90-96 under 35 U.S.C. §101, asserting that these claims are directed to non-statutory subject matter because the at least one computer-readable medium recited in these claims can be considered to be a disembodied propagating electromagnetic signal.

Each of these claims has been amended to clarify that the at least one computer-readable medium recited therein is “tangible.” As a propagating signal is not tangible, the at least one tangible computer-readable medium recited in claims 21-32, 34-40, 80-88 and 90-96 cannot be considered to be such a signal.

As such, it is respectfully requested that the rejection of claims 21-32, 34-40, 80-88 and 90-96 under 35 U.S.C. §101 be withdrawn.

Rejections Under 35 U.S.C. §103

The Office Action rejects each of claims 1-12, 14-32, 34-54, 56-67, 69-71, 73-84, 86-88, 90-104, 106-109 and 110-116 under 35 U.S.C. §103(a) as purportedly being obvious over Heil (US 6,173,374) in view of Nakayama et al. (US 2005/0005066).

In Applicant’s previous response, Applicant pointed out that each of independent claims 1, 21, 41, 63, 80, and 97 includes limitations that relate to the unit of data being accessible in the storage environment by a content address that is based, at least in part, upon at least a portion of

the content of the unit of data, and noted that neither Heil nor Nakayama discloses or suggests that data is accessible using this particular type of address.

In response to this argument, the Examiner does not appear to disagree that the cited references fail to disclose the use of a content address for a unit of data that is based, at least in part, upon at least a portion of the content of the unit of data, but rather asserts that the limitations in each of claims 1, 21, 41, 63, 80, and 97 that require that the content address is based, at least in part, upon at least a portion of the content of the unit of data should not be given patentable weight because they appear in the preamble.

Initially, Applicant notes that the limitation relating to the content address for the unit of data being based, at least in part, upon at least a portion of the content of the unit of data does not appear in the preamble of claims 41 and 97. Rather, the **body** of claim 41 recites, “an input that receives a request from a host computer to locate a unit of data on at least one of a plurality of storage clusters in a storage environment in which the unit of data is accessible **by a content address that is based, at least in part, upon at least a portion of the content of the unit of data,**” and the **body** of claim 97 recites, “an input that receives a request from an application program executing on a host computer to store a unit of data on at least one of a plurality of storage clusters in a storage environment in which the unit of data is **accessible by a content address that is based, at least in part, upon at least a portion of the content of the unit of data.**” Thus, clarification is sought as to why the Examiner has not given patentable weight to the above-quoted limitations of claims 41 and 97.

With respect to independent claims 1, 21, 63, and 80, each of these claims has been amended to move the limitation relating to a content address that is based, at least in part, upon at least a portion of the content of the unit of data from the preamble into the body of the claim. As previously explained and as the Examiner appears to concede, neither Heil nor Nakayama discloses the use of a content address for a unit of data that is based upon at least a portion of the content of the unit of data.

As such, each of independent claims 1, 21, 41, 53, 80, and 97 patentably distinguishes over the asserted combination of Heil and Nakayama, and it is respectfully requested that the rejection of each of these claims under 35 U.S.C. §103(a) be withdrawn.

If the rejection of any of these claims is to be maintained, clarification is respectfully requested as to:

(1) why the Examiner has not given patentable weight to the limitations in the bodies of claims 41 and 97 relating to a content address for a unit of data that is based, at least in part, upon at least a portion of the content of the unit of data; and

(2) where in Heil or Nakayama that Examiner believes a content address for a unit of data that is based upon at least a portion of the content of the unit of data is disclosed.

Each of the dependent claims depends directly or indirectly from one of the independent claims. For reasons described in detail above, each of the independent claims patentably distinguishes over the references and each of these dependent claims distinguishes over the references at least based on its dependency. Accordingly, for at least the foregoing reasons, it is respectfully requested that the rejections of each of the dependent claims be withdrawn.

Because each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. However, Applicant does not necessarily concur with the interpretation of the dependent claims as set forth in the Office Action, nor does Applicant concur that the basis for the rejection of any of the dependent claims is proper.

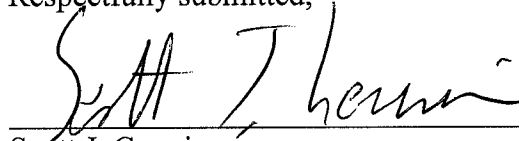
CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance. A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed, or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. E0295.70199US00 from which the undersigned is authorized to draw.

Dated: December 3, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott J. Gerwin", written over a horizontal line.

Scott J. Gerwin
Registration No.: 57,866
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
617.646.8000